

BEFORE THE IDAHO BOARD OF TAX APPEALS

LUCAS TRUST,	)	
	)	
Appellant,	)	APPEAL NO. 15-A-1117
	)	
v.	)	FINAL DECISION
	)	AND ORDER
BONNER COUNTY,	)	
	)	
Respondent.	)	
	)	
	)	
	)	

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**RESIDENTIAL PROPERTY APPEAL**

This appeal is taken from a decision of the Bonner County Board of Equalization denying the protest of valuation for taxing purposes of property described by Parcel No. RP00089000003AA. The appeal concerns the 2015 tax year.

This matter came on for hearing October 6, 2015 in Sandpoint, Idaho before Board Member David Kinghorn. Kathlyn Lucas appeared at hearing for Appellant. Al Ribeiro represented Respondent.

Board Members David Kinghorn, Linda Pike and Leland Heinrich participated in this decision.

**The issue on appeal concerns the market value of an improved residential property.**

**The decision of the Bonner County Board of Equalization is modified.**

**FINDINGS OF FACT**

The assessed land value is \$275,650, and the combined value of the improvements is \$84,450, totaling \$360,100. Appellant contends the correct land value is \$125,000, and the combined value of the improvements is \$80,790, totaling \$205,790.

The subject property is .239 acre waterfront parcel improved with a 1,060 square foot residence constructed in 1980. The lot enjoys 50 front feet on the east side of Priest Lake. Other improvements include docks, boat lifts, and various outbuildings. Subject is located in the

1<sup>st</sup> Addition Diamond Park subdivision in Coolin, Idaho.

Appellant described subject as a difficult lot in terms of steepness and unstable soils. Appellant estimated portions of the lot exceed a 70 degree slope. The residence was noted to sit approximately 70 feet above the water, which was the only available building site on the lot. Appellant further explained subject's waterfront has no beachfront, but rather has only a stone breakwater which was installed years ago to protect the waterfront. Access to the water from the residence is via a long stairway cut into the slope of the lot. In Appellant's view, subject's steep topography and difficult water access rendered the parcel less desirable than other lakefront lots with relatively flat topography, white sandy beaches, and the capability of supporting large residential structures near the water's edge. Photographs depicting subject's land and improvement features were provided.

Appellant challenged Respondent's use of a uniform front foot value rate to assess all lakefront parcels. Appellant argued the uniform rate failed to take into consideration notable physical differences between parcels on the diverse Priest Lake lakefront. Appellant explained, historically, steep and rocky parcels typically sell for less per front foot than flat and sandy parcels. In all, Appellant contended Respondent's methodology resulted in an inaccurate, excessive, and arbitrary assessment of subject.

Appellant offered information concerning five (5) lakefront sales which occurred during 2014. A somewhat unique feature of Priest Lake is some of the lakefront lots are owned by the State of Idaho and are leased to lessees who are permitted to build residential and other improvements on the lots. In August 2014, the State held an auction involving 60 of these leased lots. An independent fee appraisal of the lots was commissioned, only a small portion

of which was made available at hearing. The appraisal included a topography rating for each of the auction lots, which was used in the analysis to determine the value of the lots. The topography rating considered for each lot the distance between the shoreline and building site, the distance between the access road and the building site, shoreline qualities, and lake depth qualities. Topography ratings for the auction lots ranged from 7 to 16, with 16 representing the highest valued parcels. Appellant remarked the higher rated sites represented flat sandy lots. The appraisal report's value conclusions were used to set the minimum bid price at the auction. Sale prices ranged from roughly \$526 to \$4,230 per front foot. All except one (1) of the 60 lots offered at the auction were purchased, with 57 of the sale lots being purchased by the lessee.

Appellant explained the Bonner County Board of Equalization (BOE) set the assessed values of the auction lots at their respective purchase prices. The BOE did not similarly reduce other lakefront values based on the auction price information. Appellant argued this created a separate class of lakefront parcels, and thus different assessment treatment in violation of the Idaho Constitution's requirement of uniform tax treatment of parcels within the same property class. Focusing on the auction lots with topography and waterfront similar to subject's, Appellant determined a value rate of \$2,500 per front foot for subject.

Appellant also challenged the value of a section of boat docking added a couple years after the larger dock was installed. Respondent characterized this section of dock as a boat lift, however, recognized it was not a mechanized or hydraulic boat lift. Appellant reported the new section was purchased for \$850 in 2007. Appellant estimated a useful life for the dock section of ten (10) years. Based on this, Appellant concluded the value of the dock segment was \$340, not \$4,000 as currently assessed.

Respondent contested Appellant's use of the auction sales as the basis for reducing subject's land value. Respondent argued the auction prices were below market value. According to Respondent, the fee appraisal used some dated sales, as well as, waterfront sales from different lakes in arriving at the appraised values of the auctioned Priest Lake lots. Respondent also remarked only two (2) of the auction lots received more than one (1) bid, which was reasoned to demonstrate there was little competition among buyers. Respondent also characterized the State of Idaho as being under compulsion to sell and the buyers as highly motivated and anxious to purchase the land sitting under their residences. Respondent further contended the fee appraisal allocated too little value to the land component and too much value to the improvements, resulting in per-front-foot land rates below market value. As a result, Respondent did not consider any of the auction sales in determining subject's assessed value.

Respondent provided information concerning nine (9) waterfront sales of Priest Lake parcels. The sales occurred during late 2013 and throughout 2014. The sale properties were situated all over the lake, with the majority located on the more developed west side of Priest Lake. Two (2) of the sales were vacant parcels, one (1) of which was located near a river outlet. These vacant lots, both with mostly flat topography and building sites near the water's edge, consisted of 110 and 50 waterfront feet. Sale prices were \$538,000 and \$260,000, or \$4,891 and \$5,200 per front foot, respectively. The remaining sales involved improved parcels, one (1) of which was noted to have steep topography similar to subject. Sale prices ranged from \$445,000 to \$1,600,000. After extracting assessed values of the associated improvements, Respondent calculated land value residuals between \$377,650 and \$1,338,240, or from \$5,106 to \$6,965 per front foot. Subject was assessed at \$5,523 per front foot.

Appellant challenged the comparability of the sales used in Respondent's analysis. Photographs of the sale properties were provided, which depicted relatively flat lots with sandy beachfronts and large building sites near the water. Regarding the one (1) sale with steep topography, Appellant noted the sale actually involved two (2) lots with two (2) separate residences, which were subsequently combined into a single parcel. Appellant argued Respondent placed too little value on the improvements involved in this sale, thereby inflating the land value and corresponding front foot rate.

#### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value, or as applicable exempt status. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code § 63-205 requires taxable property be assessed at market value annually on January 1; January 1, 2015 in this case. Market value is defined in Idaho Code § 63-201, as,

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

The three (3) primary methods for determining market value include the cost approach, the income approach, and the sales comparison approach. *Merris v. Ada County*, 100 Idaho 59, 63, 593 P.2d 394, 398 (1979). Residential property is commonly valued using the sales comparison approach.

Appellant raised two (2) primary arguments regarding the current assessment of the

subject land. The first concerned the methodology used by Respondent in assessing each Priest Lake waterfront parcel at the same per-front-foot rate. The second argument centered on whether the BOE's decision to set the assessed land values of the auction sales at their respective purchase prices, while not affording similar assessment treatment to the other lakefront parcels, violated the constitutional mandate of uniform taxation. Each argument will be addressed in turn.

The Board appreciates the difficulty faced by Respondent in determining market values for Priest Lake's diverse waterfront. However, it is precisely this well recognized diversity among the Priest Lake waterfront parcels which undermines Respondent's position that a uniform valuation rate was proper in assessing these parcels. Such an approach ignores the unique physical characteristics of individual waterfront lots. A fundamental appraisal step is consideration of a property's actual physical characteristics. Indeed, property, by its very nature, is unique. It follows then that a parcel's physical characteristics should feature prominently in measuring market value.

Respondent argued the nine (9) sales used to set Priest Lake values for 2015 did not demonstrate price fluctuations for different types of waterfront. In other words, individual lot characteristics were not relevant. A closer look at the sales, however, indicates otherwise. Eight (8) of the sales relied on by Respondent involved lots having relatively flat topography, sandy beachfronts, and large building sites near the water's edge. That the sale price range of these generally homogenous properties was somewhat tight is not surprising.

Respondent noted one (1) of its sales involved a steep lot and argued the fact it sold at a similar price per front foot as the other flat parcels was conclusive evidence there was no

market value difference between the two (2) lot types. The Board's concern with this assertion is Respondent's reliance on a single sale; a sale which reportedly involved two (2) lots with two (2) residences, later combined into one (1) parcel. Subject, by contrast is a single lot capable of supporting only one (1) residence. Further, relying on a single sale as the basis for a broad-reaching value conclusion is inherently unreliable. As the Court has recognized, "[i]n any single individual transaction there are many variables which are dependent upon the peculiar aspects of the transfer and which affect the price agreed upon by the parties. Market value, therefore, is generally established by numerous sales of the same or comparable property . . . ." *Gillingham v. Stadler*, 93 Idaho 874, 878, 477 P.2d 497, 504 (1970). This position is also well supported by recognized appraisal practice. In all, the Board found inadequate support for Respondent's use of a single valuation rate for all Priest Lake waterfront parcels.

More concerning to the Board, however, was the BOE's disparate valuation treatment of the auction lots compared to the non-auction lakefront sites. The land value for each auction lot was set at the individual sale price, while the non-auction lots remained at the higher value determined by the assessor. This action resulted in two (2) separate groups of lakefront parcels within the same property class being assessed using entirely different valuation methods. The Idaho Constitution does not permit such a result.

Article VII, § 5 of the Idaho Constitution provides in pertinent part, "[a]ll taxes shall be uniform upon the same class of subjects within the territorial limits, of the authority levying the tax, and shall be levied and collected under general laws, which shall prescribe such regulations and shall secure a just valuation for taxation of all property, real and personal . . . ."

There was some concern regarding whether the auction prices were at market value. In

particular, Respondent questioned some of the analysis in the fee appraisal report commissioned by the State of Idaho. Unfortunately, the Board is unable to address this issue because a full copy of the appraisal was not furnished for our review. Rather, the evidentiary record included only a small excerpt from the report, from which no meaningful analysis could be performed. Making a market value determination concerning the auction prices, however, is not the relevant inquiry in a case such as this where subject was assessed differently than the 59 lots sold at auction.

“The requirement that all property be assessed at its actual cash value is secondary to the constitutional mandate of equality of taxation. Where certain property is assessed at a higher valuation than all other property, *the court will enforce the requirement of uniformity by a reduction of the taxes on the property assessed at the higher valuation*, if it be shown that the difference is the result not of mere error in judgment, but of fraud or of *intentional and systematic discrimination*.” *Washington County v. First Nat’l Bank*, 35 Idaho 438, 444, 206 P. 1054, 1056 (1922) (emphasis added). Subject was assessed substantially higher than the auction lots, which can only be remedied at this stage by reducing subject’s assessment.

Appellant further requested a reduction in the value of one (1) of the improvements. Specifically, Appellant challenged the value of the second “boat lift”, which was assessed at \$4,000. Appellant explained this particular portion of the dock improvements was not a boat lift, but rather simply a depression in the float used for storing a boat. Appellant paid roughly \$850 for this section of the dock improvements in 2007, and based on a ten (10) year useful life, estimated the current value at \$340. Respondent acknowledged the improvement was not a traditional mechanized or hydraulic boat lift. For purposes of assessment, the improvement was



simply referred to as a *boat lift* and valued at the lowest rate. Respondent also argued it is the contributory value of the improvement which is important, not the actual purchase price of the improvement. On this point, we agree. It is well settled cost does not necessarily equate to market value. This is particularly true in the current case where the disputed value concerns an improvement purchased in 2007. Historical cost information for an improvement approaching ten (10) years in age, is generally not the best indication of its current value. On this issue, Appellant did not provide sufficient evidence to overturn the value determined by Respondent.

According to Idaho Code § 63-511, Appellant bears the burden of establishing error in subject's valuation by a preponderance of the evidence. The Board finds the burden of proof satisfied in this instance with respect to subject's land value.

Based on the above, the decision of the Bonner County Board of Equalization is modified, thereby lowering subject's land value to \$125,000, which includes the value attributable to the onsite improvements.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, MODIFIED to reflect a reduction in subject's land value to \$125,000, with no changes to the respective improvement values.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 63-1305, any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

Idaho Code § 63-3813 provides that under certain circumstances the above ordered value

for the current tax year shall not be increased in the subsequent assessment year.

DATED this 29<sup>th</sup> day of January, 2016.